

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: OMAHA DIST DRO

FILE NUMBER: 200380296

REGULATORY PROJECT MANAGER: MCKEE

PROJECT REVIEW/DETERMINATION COMPLETED: In the office **Date:**
At the project site **Date:** Apr 19 04

PROJECT LOCATION INFORMATION:

State: Colorado

County: Boulder

Center coordinates of site by latitude & longitudinal coordinates: 40-13-01.0839 105-13-44.7529

Approximate size of site/property (including uplands & in acres): 20 ac

Name of waterway or watershed: Little Thompson River

SITE CONDITIONS: rural dry upland around the aquatic sites

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
x Stream				x					
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type) Supply Ditch, Culver Lateral Ditch					x				

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			x		
Is or would be used as habitat by other migratory birds that cross state lines?			x		
Is or would be used as habitat for endangered species?					x
Is used to irrigate crops sold in interstate commerce?					x

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Approved x Preliminary

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): Even though the Supply Ditch intercepts blue line tributaries down stream of it's origin from the St. Vrain Creek, it flows to the Culver Lateral Ditch where the Culver Lateral Ditch during normal daily operations, at a head gate north of the Supply Ditch, does not let water flow to any U.S waters, in this case the Little Thompson River. The last time water went to the Little Thompson River through the Culver Lateral Ditch was in 1995 and only two other times in the last 39 years; in 1964 and 1983. The main flow of the Supply Ditch down stream from the Culver Lateral Ditch headgate terminates in upland. Based on the information above, with regards to the case of Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, the Supply Ditch, Culver Lateral Ditch and connected blue line tributaries are not waters of the U.S. by the use of the 99-4190 Analysis of the Magnitude and Frequency of Floods in Colorado, and daily normal operations of an agricultural irrigation ditch.